

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DESHUN THOMAS,

Petitioner,

VS.

**BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION,**

Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals for the Fifth Circuit

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Petitioner Deshun Thomas moves for leave to file the accompanying Petition for Writ of Certiorari *in forma pauperis*, without prepayment of costs, under Supreme Court Rule 39. The U.S. Court of Appeals for the Fifth Circuit appointed the undersigned as pro bono appellate counsel. The order appointing the undersigned as pro bono appellate counsel is attached hereto as Appendix A.

Submitted on March 18, 2021.

s/Charles W. Prueter

Charles W. Prueter

Counsel of Record

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Appendix A

Order Appointing Charles Prueter as Pro Bono Appellate Counsel

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

July 31, 2019

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 17-20661 Deshun Thomas v. Lorie Davis, Director
USDC No. 4:14-CV-290

Enclosed is an order entered in this case.

Appellant's supplemental brief is due within 40 days from the date of this letter.

A copy of the court's previous order regarding issue(s) to be briefed is attached.

Sincerely,

LYLE W. CAYCE, Clerk



By:
Angelique B. Tardie, Deputy Clerk
504-310-7715

Mr. Charles W. Prueter
Ms. Susan Frances San Miguel

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-20661

DESHUN THOMAS,
Petitioner – Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION
Respondent - Appellee

Appeal from the United States District Court
for the Southern District of Texas

O R D E R:

The court, having reviewed the briefing in this matter, is of the opinion that it would be best served by appointing pro bono counsel for the appellant, Deshun Thomas, in this case. *See* General Order Governing the Circuit Pro Bono Program (5th Cir. June 6, 2017). Counsel will be selected from this court’s pro bono panel.

As noted in this court’s order granting COA in part issued on August 7, 2018, it appears that Thomas is making a claim that his ineffective assistance of counsel claim should have been viewed through the prism of *United States v. Cronic*, 466 U.S. 648 (1984). Pro Bono counsel is ordered to address whether the *Cronic* claim was raised in state court and adjudicated there, as well as whether AEDPA deference applies to any such adjudication. The clerk is DIRECTED to establish a supplemental briefing schedule upon the appointment of counsel.

/s/ James E. Graves, Jr.

JAMES E. GRAVES, JR.
UNITED STATES CIRCUIT JUDGE

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-20661

DESHUN THOMAS,
Petitioner – Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
CORRECTIONAL INSTITUTIONS DIVISION
Respondent - Appellee

Appeal from the United States District Court
for the Southern District of Texas

O R D E R:

IT IS ORDERED that attorney Charles Prueter, a member in good standing of the bar of this court, is appointed as PRO BONO counsel for the appellant for purposes of the proceedings in this court.

/s/ James E. Graves, Jr.

JAMES E. GRAVES, JR.
UNITED STATES CIRCUIT JUDGE